

## **REMARKS**

### **Examiner Interview**

Applicant thanks the Examiner for the courtesy of the telephone interview on February 21, 2008 in which claim 27 and Figure 3 of the present application were discussed in relation to column 15, lines 34-40 of Abraham, U.S. Patent 5,983,270, particularly with regard to the operation of Applicant's claimed first, second, and third data structures. No particular agreement was reached on allowability of any claims over Abraham.

### **Amendments**

#### ***Amendments to the Claims***

Claims 21, 34, and 48 have been amended to incorporate subject matter from claim 27. Applicant has amended the claims to more particularly point out what Applicant regards as the invention. No new matter has been added as a result of these amendments.

### **Rejections**

#### ***Rejections under 35 U.S.C. § 102(b)***

**Claims 21, 23, 25-34, 36, 38-39 and 46-49**

Claims 21, 23, 25-34, 36, 38-39 and 46-49 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Abraham, U.S. Patent 5,983,270.

As discussed in the interview of February 21, 2008, the Examiner considers a user group table and a user record, as described in Abraham, to be equivalent to Applicant's claimed second data structure and third data structure, respectively. The Examiner also considers Abraham to inherently teach an index containing an entry for locating the user record, and the Examiner considers such an inherent index to be equivalent to Applicant's claimed first data structure storing a value indicating a position in a specified sequence. Applicant points out that "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." (MPEP 2112). Because the Examiner first mentioned the inherent index during the interview, the Examiner's arguments in support of his position are not of record. Therefore, Applicant respectfully requests that the Examiner provide technical reasons supporting his assertion that an index must necessarily be present in Abraham.

Even assuming *arguendo* that Abraham teaches inherently a data structure that can be considered equivalent to Applicant's claimed first data structure, Abraham only teaches storing information in a user group table and storing in a user record a reference to information in another data structure. In contrast, claim 27 recites storing information for a selected field in a second data structure in a sequence independent of the specified sequence. Claim 27 further recites storing in a third data structure a reference to the information stored in the second data structure, including storing each reference in a location of the third

data structure that corresponds to the position in the specified sequence of the corresponding field. However, Abraham does not teach that the location within the user record where each reference is stored has any significance, much less that it corresponds to a position in a selected sequence. Abraham thus fails to anticipate the invention as claimed in claim 27.

Claims 21, 34, and 48 have been amended to include similar limitations as claim 27 and are also not anticipated by Abraham. Dependent claims 23, 25-26, 28-33, 36, 38-39, 46-47, and 49 are also not anticipated by Abraham.

Accordingly, Applicant respectfully submits that the invention claimed in claims 21, 23, 25-34, 36, 38-39 and 46-49 is not anticipated by Abraham under 35 U.S.C. § 102(b) and respectfully requests the withdrawal of the rejection of the claims.

### SUMMARY

Claims 21, 23, 25-34, 36, 38, 39 and 46-49 are currently pending. In view of the foregoing amendments and remarks, Applicant respectfully submits that the pending claims are in condition for allowance. Applicant respectfully requests reconsideration of the application and allowance of the pending claims.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Kerry Liang at (408) 720-8300.


### Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

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& ZAFMAN LLP

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